

REMARKS

In the Office Action of January 30, 2003, claims 1-16, and 37-62 stand rejected. Claims 17-36 and 63-83 have been withdrawn. In this response, Claims 1, 14, 37, 51, 55 and 60 have been amended. Claims 9-13, and 46-50 have been canceled. Reconsideration and allowance of all pending claims are respectfully requested in view of the following remarks.

I. DUPLICATIVE CLAIMS

The Examiner argues that claim 58 and claim 59 are a substantial duplicates of each other and as such, one of the claims must be canceled. However, the Examiner is incorrect. The sulfur species in claim 58 is -Sm- , which is uncharged (as in RSmR). In claim 59 the sulfur species is -Sm^- , which is charged (as in RSm-). In claim 60 the sulfur species is -Sm^{2-} , which is doubly charged. Since claims 58 and claim 59 claim different sulfur species, the claims are not substantial duplicates of each other.

II. OBJECTED TO CLAIMS

Claims 12, 55 and 58-60 are objected to because of informalities in the claims; namely typographical errors. Claim 12 has been canceled, rendering those objections moot. Claims 55 and 59-60 have been amended to correct the informalities.

III. ALLOWABLE SUBJECT MATTER.

The Examiner noted that claims 10 and 47 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The base claim for claim 10 is 1 and the intervening claim is 9. Claim 1 has been rewritten to incorporate claim 9 and 10. Therefore, claim 1 is claim 10 in independent form including all the limitations of the base claim and intervening claims. Therefore, claim 1 is in condition for allowance. Claims 2-8 and 14-16 depend from allowable claim 1. Therefore, claims 2-8 and 14-16 are in condition for allowance.

The base claim for claim 47 is claim 37 and claim 36 is an intervening claim. Claim 37 has been rewritten to incorporate claim 36 and 37. Therefore, claim 36 is claim 47 in

independent form including all the limitations of the base claim and intervening claims.

Therefore, claim 37 is in condition for allowance. Claims 38-45, 51-58 and 60-62 depend from allowable claim 37. Therefore, claims 38-45, 51-58 and 60-62 are in condition for allowance.

IV. DOUBLE PATENTING

The Examiner has provisionally rejected claims 1 and 2 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 21 of copending application 10/025,652. Applicant believes that in light of the amendments made to claim 1, claim 1 is patentably distinct from claim 21 of copending application 10/025,652. For example, claim 21 of copending application 10/025,651 does not include the limitations of:

a third layer comprising a single ion conducting layer, wherein said third layer is in contact with said second layer on the side opposite to said first layer and wherein said single ion conducting layer comprises a glass selected from the group consisting of lithium silicates, lithium borates, lithium aluminates, lithium phosphates, lithium phosphorus oxynitrides, lithium silicosulfides, lithium germanosulfides, lithium lanthanum oxides, lithium tantalum oxides, lithium niobium oxides, lithium titanium oxides, lithium borosulfides, lithium aluminosulfides, and lithium phosphosulfides, and combinations thereof.

which are now found in claim 1, as amended. Therefore, the double patenting rejection should be withdrawn.

V. OTHER REJECTIONS.

All other rejections are rejections under 102(b) or 103(a). Claims 1 and 37 have been amended in the manner suggested by the Examiner. Therefore, these claims are allowable. The remaining claims depend from either allowable claim 1 or allowable claim 37 and are therefore allowable. All rejections under 102(b) and 103(a) have been rendered moot by Applicant's amendment.


VI. **CONCLUSION**

For the foregoing reasons, the Application is believed to be in condition for allowance and favorable action is respectfully requested. The examiner is invited to telephone the undersigned at the telephone number listed below if it would in any way advance prosecution of this case.

While no other fees are believed due, applicants hereby request that any other required fee to maintain pendency of this case, except for the Issue Fee, be charged to Deposit Account No. 19-3878.

Respectfully submitted,

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Date

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